

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

SEAN F. MESCALL,

Plaintiff,

Case No. 2:20-CV-11477

HONORABLE VICTORIA A. ROBERTS

v.

BUREAU OF PRISONS, et. al,

Defendants.

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYING FEES AND
COSTS ON APPEAL (ECF No. 30) AND THE NOTICE AND
AUTHORIZATION TO WITHDRAW APPEAL FILING FEE OF \$ 505.00
(ECF No. 34) TO THE UNITED STATES COURT OF APPEALS FOR THE
SIXTH CIRCUIT**

This Court dismissed Plaintiff's civil rights complaint without prejudice on September 21, 2020, when Plaintiff failed to timely correct a filing fee deficiency by either paying the filing fee or submitting an application to proceed without prepayment of fees and costs and supporting documentation.

Plaintiff filed a Notice of Appeal (ECF No. 29). Plaintiff then filed an application to proceed without prepayment of fees and costs on appeal and a notice and authorization to withdraw appeal filing fee of \$ 505.00 with this Court. For the reasons stated below, the Court orders that the applications be transferred to the United States Court of Appeals for the Sixth Circuit.

Plaintiff filed a Notice of Appeal. A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(per curiam)); see also *Workman v. Tate*, 958 F.2d 164, 167 (6th Cir. 1992). Plaintiff’s notice of appeal divests this Court of jurisdiction to consider his applications to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. See *Johnson v. Woods*, No. 5:12–11632; 2013 WL 557271, *2 (E.D. Mich. Feb. 13, 2013); *Glick v. U.S. Civil Service Com’n*, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29-30 (E.D. Pa. 1983). Upon the filing of the notice of appeal, jurisdiction of this action transferred from the district court to the Sixth Circuit Court of Appeals. Plaintiff’s applications to proceed *in forma pauperis* on appeal must be decided by the Sixth Circuit. In the interests of justice, this Court orders the application to proceed without prepayment of fees and costs and the notice and authorization to withdraw appeal filing fee of \$ 505.00 to be transferred to the Sixth Circuit. See *Baker v. Perry*, No. 2:12–10424; 2012 WL 6097323, *2 (E.D. Mich. Dec. 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer Plaintiff’s “Application to Proceed Without Prepaying Fees and Costs on Appeal” (ECF No. 30) and “Notice and Authorization to Withdraw Appeal Filing Fee of \$ 505.00”

(ECF No. 34) to the United States Court of Appeals for the Sixth Circuit pursuant to
28 U.S.C. § 1631.

s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: 7/6/2021